

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KAMAU PHILLIPS,

Plaintiff,

v.

RSM US LLP,

Defendant.

No. 1:22:cv-06724

Judge Franklin Valderrama
Magistrate Judge Jeffrey Cummings

**DEFENDANT’S MOTION TO DISMISS
COUNT III AND NATIONAL ORIGIN DISCRIMINATION CLAIMS**

Defendant RSM US LLP (“Defendant” or “RSM”), by and through its undersigned attorneys, move pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss Count III and any claim involving national origin discrimination in Plaintiff Kamau Phillips’ (“Plaintiff”) Complaint. In support of its Motion, Defendant states as follows:

1. In his Complaint, Plaintiff asserts: a claim of discrimination in violation of 42 U.S.C. § 1981 (“Section 1981”) (Count I); claims of discrimination (Count II), hostile work environment (Count III), and retaliation (Count IV) in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et. seq.* (“Title VII”); and further asserts national origin discrimination in violation of Title VII.

2. Plaintiff’s hostile work environment and national origin discrimination claims must be dismissed because Plaintiff failed to comply with the administrative prerequisites under Title VII. Alternatively, Plaintiff’s Complaint fails to state a claim for hostile work environment and national origin discrimination.

3. The arguments and authorities in support of this Motion are set forth in Defendant's Memorandum in Support of its Motion to Dismiss, which will be filed contemporaneously and is incorporated herein by reference.

WHEREFORE, Defendant RSM US LLP respectfully request that the Court grant its Motion to Dismiss Count III and National Origin Discrimination Claims, and further requests that it be granted such other relief as deemed appropriate by the Court.

Dated: January 24, 2023

Respectfully submitted,

RSM US LLP

By: /s/ Daniel Y. Kim

One of Its Attorneys

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CERTIFICATE OF SERVICE

The undersigned attorney certifies that on January 24, 2023, he caused true and correct copies of the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the below counsel of record:

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/s/ Daniel Y. Kim
One of Defendant's Attorneys